

BEFORE THE IOWA BOARD OF CHIROPRACTIC

IN THE MATTER OF)	
)	
ANDREW KEARSE, D.C.,)	EMERGENCY ADJUDICATIVE
License Number 007454)	ORDER
Respondent.)	

COMES NOW the Iowa Board of Chiropractic, on this 9th day of December, 2015, and finds it was presented with evidence which establishes that Respondent's continued practice as a chiropractor constitutes an immediate danger to the public health, safety, and welfare. A summary of the evidence obtained by the Board is as follows:

FINDINGS OF FACT

1. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 147, 151, and 272C.
2. Respondent was issued license number 007454 to practice as a chiropractor in the State of Iowa on August 12, 2001. The license is current through June 30, 2016.
3. Respondent is a chiropractor practicing in Keokuk, Iowa.
4. The Board received a complaint that Respondent grabbed a female patient's breasts during an appointment on June 11, 2015. The patient further alleged that Respondent attempted to touch her pubic area and placed his erect penis in her hand.
5. Respondent has been charged with a simple misdemeanor as a result of the incident. The criminal charges are pending with trial scheduled for early 2016.
6. The Keokuk Police Department received a complaint that Respondent had grabbed a second female patient's breasts during an appointment on March 5, 2014.
7. The Keokuk Police Department received a complaint that Respondent touched a third female patient inappropriately during an appointment on August 11, 2015.
8. The Keokuk Police Department received a complaint that Respondent grabbed a fourth female patient's breasts during an appointment in 2014.
9. The Keokuk Police Department received a complaint that Respondent grabbed a fifth female patient's breasts during appointments.

10. The Keokuk Police Department received a complaint that Respondent touched a sixth female patient and made lewd or sexually suggestive comments to the patient during an appointment in 2013.

11. The Keokuk Police Department received a complaint that Respondent touched a seventh female patient's breasts during an appointment in 2014.

12. On September 15, 2015, the Board received information that Respondent has had sexual contact in the office with other female patients, both at the time of their appointments and after hours.

13. The Board concludes that its current ongoing investigation is sufficient to ensure the Board is proceeding on reliable information. The information, if proven at hearing, would indicate that Respondent's conduct constitutes unethical conduct and practice harmful or detrimental to the public, in violation of Iowa Code sections 151.9(3) and (8), 147.55(3) and (8), 272C.10(3) and (8), and Iowa Administrative Code rule 645—45.2(3) and (28)(b).

CONCLUSIONS OF LAW

14. In a contested case proceeding, if sufficient evidence is presented to prove an allegation and the Board finds the action constitutes a violation, the Board has the authority to impose disciplinary sanctions including civil penalty, additional education or training, probation, suspension, or revocation of a license. Iowa Administrative Code rule 645—45.3.

15. In an emergency adjudicative order, "[an] agency may only take such action as is necessary to prevent or avoid the immediate danger to the public, health, safety, or welfare that justifies use of emergency adjudication. Iowa Code § 17A.18A(2).

16. "Before issuing an emergency adjudicative order, the board shall consider: (a) whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information; (b) whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing, (c) whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare, (d) whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare, and (e) whether the specific action contemplated by the board is necessary to avoid the immediate danger." Iowa Administrative Code rule 645—11.28(2).

17. The facts set forth above establish that Respondent's continued practice as a chiropractor poses an immediate danger to the public health, safety, or welfare.

18. The information gathered regarding Respondent's conduct while purporting to perform chiropractic—multiple patients that have come forward with

allegations of inappropriate touching—raises global concerns regarding Respondent's ability to safely and appropriately practice.

19. Respondent's continued practice poses a serious and immediate danger to his female patients that cannot be addressed through any means other than the imposition of interim safeguards before the Board can reach a final decision in a contested case against him.

20. The Board finds the following monitoring requirements and other interim safeguards would be sufficient to protect the public health, safety, or welfare until this case is finally resolved or until such time the Board receives satisfactory evidence of Respondent's fitness to practice:

- a. Respondent shall not treat or provide services to female patients.
- b. Respondent shall provide a copy of this Order to each employee and staff person working in his practice. Respondent shall provide a signed verification from each employee documenting receipt of the Order within ten days of the date of this order to the Board.

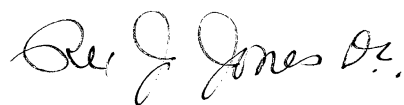
21. Respondent shall be notified immediately of this order pursuant to Iowa Administrative Code rule 645—11.28(3).

ORDER

IT IS HEREBY ORDERED, in accordance with Iowa Code Section 17A.18A (2011) and Iowa Administrative Code rule 645—11.28, that Respondent's license be subject to the above-stated restrictions to practice as a chiropractor pending further order of the Board.

A hearing on this Emergency Adjudicative Order shall be held on January 13, 2016. The hearing will begin at 9:00 a.m. and will be held at the Board conference room, 5th Floor, Lucas State Office Building, Des Moines, IA 50319.

This Order dated December 9, 2015.



Dr. Rex Jones, D.C., Chairperson
Iowa Board of Chiropractic